

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6135**  
**BILL NUMBER: SB 44**

**NOTE PREPARED:** Jan 22, 2007  
**BILL AMENDED:**

**SUBJECT:** Courts and HIV Testing.

**FIRST AUTHOR:** Sen. Bray  
**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill corrects certain cross-references that relate to HIV testing after convictions for certain sex and substance abuse offenses. It also makes other changes and conforming amendments. (The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** This bill restores the list of crimes referenced by the statute regarding HIV testing of offenders after certain criminal convictions, thus enabling the courts to receive the results of HIV tests.

*Background* -- Under current law, courts having either criminal or juvenile jurisdiction are required to order an HIV screening test if the adult or juvenile has committed a sex crime or a crime related to using controlled substances in which a demonstrated risk of transmitting HIV would occur. The general arrangement is for a health worker with the local health department to draw the blood specimen and to send the specimen to the laboratory of the State Department of Health (SDH) for analysis. Staff in the SDH laboratory perform the tests and send the results to the Legal Section of the SDH. Attorneys in the Legal Section will then contact the courts with the information. The SDH is also required to notify victims of these crimes and to provide counseling to the persons notified.

The sex crimes are listed in IC 35-38-1-7.1(c), while the crimes related to controlled substances are listed in IC 35-38-1-7.1(f). The sex crimes include: rape (IC 35-42-4-1), criminal deviate conduct (IC 35-42-4-2), child molesting (IC 35-42-4-3), child seduction (IC 35-42-4-7), prostitution (IC 35-45-4-2), patronizing a prostitute (IC 35-45-4-3), incest (IC 35-46-1-3), and sexual misconduct with a minor under IC 35-42-4-9(a).

The crimes related to controlled substances include: dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1), dealing in a Schedule I, II, or III controlled substance (IC 35-48-4-2), dealing in a Schedule IV controlled substance (IC 35-48-4-3), dealing in a Schedule V controlled substance (IC 35-48-4-4), possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6), possession of a controlled substance (IC 35-48-4-7), dealing in paraphernalia (IC 35-48-4-8.5), possession of paraphernalia (IC 35-48-4-8.3), and offenses relating to registration (IC 35-48-4-14).

Both sections were removed from the statute in 2005 by SEA 96 - 2005. Consequently there are no lists in current statute which refer to the crimes in question. Because these lists have been removed from statute, staff with the State Department of Health and several courts have indicated that no legal authority now exists to conduct these tests or notify victims about the results of these tests. Consequently, the number of tests ordered by the criminal and juvenile courts has declined. The specific number of tests ordered was not available.

This bill restores the list of crimes to which this section of the code references, enabling the courts to receive the results of the HIV tests.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** State Department of Health.

**Local Agencies Affected:** Courts, local health departments.

**Information Sources:** Jane Siegel, Indiana Judicial Center; Carmen Quintana, State Department of Health.

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